

**Plaintiffs' Memorandum in Opposition  
to Joint Motion for Summary  
Judgment for Failure to Prove Fault  
Element of Public Nuisance Claims**

**Ex 28 – MCKMDL00510747-752**

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**From:** Gustin, Dave [/O=MCKESSON/OU=NORTH AMERICA/CN=RECIPIENTS/CN=DAVE GUSTIN]  
**Sent:** 2/4/2011 3:08:53 PM  
**To:** Williams, Tyra [tyra.williams@mckesson.com]; McIntyre, Keith [keith.mcintyre@mckesson.com]; Baronet, Lori [lori.baronet@mckesson.com]  
**CC:** Vanderburg, Craig [craig.vanderburg@mckesson.com]; Hilliard, Gary [gary.hilliard@mckesson.com]; Miller, Ray [ray.miller@mckesson.com]  
**Subject:** RE: Variance and Suspicious Reports

(b) The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Field Division Office of the Administration in his area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

It is my opinion that the previous reports were not the exclusive and proper response to this regulation. We have an obligation to report "suspicious orders". With no clear definition of what constitutes a suspicious order we must rely on our own judgment as to what that is. If we report anything we believe to be truly suspicious we will be meeting the spirit and letter of the regulation. Simply reporting larger than usual orders does not when there are so many plausible and routine reasons for orders to be "larger than normal". (MUS issues, someone going on vacation, a unique order pattern, a fat finger event, etc) I would wait until someone misses the report before seeking someone out to give them something that I do not agree meets their needs or requirements. Gary????

Dave Gustin DRA North Central

937 840 8553

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**From:** Williams, Tyra  
**Sent:** Friday, February 04, 2011 10:01 AM  
**To:** Gustin, Dave; McIntyre, Keith; Baronet, Lori  
**Cc:** Vanderburg, Craig; Hilliard, Gary; Miller, Ray  
**Subject:** RE: Variance and Suspicious Reports

Basically, I just want to make sure that we are in compliance with CFR 21 1301.74 (b). Lisa stated that this is a State requirement.

*Tyra Williams*

*Arcos Coordinator*

*McKesson 132*

*734-855-1406*

*734-779-8819 fax*

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**From:** Williams, Tyra  
**Sent:** Friday, February 04, 2011 9:54 AM  
**To:** Gustin, Dave; McIntyre, Keith; Baronet, Lori  
**Cc:** Vanderburg, Craig; Hilliard, Gary; Miller, Ray  
**Subject:** RE: Variance and Suspicious Reports

Lisa stated that it was the state requirement that these reports must be sent to the Bureau of Health Services in Lansing. No one has contacted me since she retired which was recently.

*Tyra Williams*  
*Arcos Coordinator*  
*McKesson 132*  
*734-855-1406*  
*734-779-8819 fax*

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**From:** Gustin, Dave  
**Sent:** Friday, February 04, 2011 9:39 AM  
**To:** McIntyre, Keith; Baronet, Lori  
**Cc:** Vanderburg, Craig; Williams, Tyra; Hilliard, Gary  
**Subject:** RE: Variance and Suspicious Reports

Lori and Tyra,

Since this Lisa Gorman is retired I am wondering, who is it that contacted you last about this report and wants it? Are we acting out of old habit or out of current need? If current need, someone must be on the other end expecting this report. Who is that??

Dave Gustin DRA North Central  
937 840 8553

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**From:** McIntyre, Keith  
**Sent:** Wednesday, February 02, 2011 3:35 PM  
**To:** Gustin, Dave; Baronet, Lori  
**Cc:** Vanderburg, Craig; Williams, Tyra; Hilliard, Gary  
**Subject:** RE: Variance and Suspicious Reports

No Queries for the States! Dave needs to collect your requirements and then we can proceed w/ real development.

Thanks,

*Keith McIntyre*  
Director of Business Systems  
Warehouse Management Solutions  
McKesson Pharmaceutical  
Office: (503) 245-9887  
Fax: (503) 342-3755  
[Keith.McIntyre@McKesson.com](mailto:Keith.McIntyre@McKesson.com)

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**From:** Gustin, Dave  
**Sent:** Wednesday, February 02, 2011 12:34 PM  
**To:** Baronet, Lori  
**Cc:** McIntyre, Keith; Vanderburg, Craig; Williams, Tyra; Hilliard, Gary  
**Subject:** RE: Variance and Suspicious Reports

Who are you talking to in the State of Mich? I want to talk to them and see what they want.

Dave Gustin DRA North Central

937 840 8553

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**From:** Baronet, Lori  
**Sent:** Wednesday, February 02, 2011 3:28 PM  
**To:** Gustin, Dave  
**Cc:** McIntyre, Keith; Vanderburg, Craig; Williams, Tyra  
**Subject:** FW: Variance and Suspicious Reports

Dave,

What was decided on these reports that the state of Michigan is asking for that are no longer supplied. Tyra asked if I could make a query on the i-series to supply information needed to the state. Before I try to create something to send out I wanted to make sure that there is no legalities or legal issues preventing me from supplying this information. If there is an easier way to supply this info to the state of Michigan please let me know.

Thanks,

Lori  
 734-779-8828

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**From:** Williams, Tyra  
**To:** Vanderburg, Craig  
**Sent:** Mon Dec 20 04:54:13 2010  
**Subject:** RE: Variance and Suspicious Reports

This report goes to the DEA not the State of Michigan. The State of Michigan requires hard copies of the Variance **DR46J6** and Suspicious **DU45J6B** reports. Lisa Gorman at the Bureau of Health Services acknowledges that these reports must be sent to her for each consecutive month that we distribute controlled substances. (We are referring to reports that need to go to the State of Michigan-Bureau of Health Services in Lansing, MI...not the DEA)

*Tyra Williams*

*Arcos Coordinator*

*McKesson 132*

*734-855-1406*

*734-779-8819 fax*

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**From:** Vanderburg, Craig  
**Sent:** Sunday, December 19, 2010 8:02 PM  
**To:** Williams, Tyra  
**Cc:** Matthews, Sherri  
**Subject:** FW: Variance and Suspicious Reports

Let me know if you're aware of the application described below by Bill Mahoney.....

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**From:** Gustin, Dave

**Sent:** Friday, December 17, 2010 4:35 PM  
**To:** Vanderburg, Craig  
**Cc:** Williams, Tyra  
**Subject:** FW: Variance and Suspicious Reports

Know about this???

Dave Gustin DRA North Central  
937 840 8553

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**From:** de Gutierrez-Mahoney, Bill  
**Sent:** Friday, December 17, 2010 4:34 PM  
**To:** Gustin, Dave; McDonald, Tom  
**Subject:** RE: Variance and Suspicious Reports

When you observe a transaction that is suspicious, there is a wms application to be used to process to DEA—it goes with the automated reporting that goes to them...

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**From:** Gustin, Dave  
**Sent:** Friday, December 17, 2010 4:28 PM  
**To:** McDonald, Tom; de Gutierrez-Mahoney, Bill  
**Subject:** RE: Variance and Suspicious Reports

Do you know what he is talking about???

Dave Gustin DRA North Central  
937 840 8553

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**From:** McIntyre, Keith  
**Sent:** Friday, December 17, 2010 3:48 PM  
**To:** Gustin, Dave; McDonald, Tom; de Gutierrez-Mahoney, Bill  
**Subject:** RE: Variance and Suspicious Reports

Don't forget that you have an iSeries program to send suspicious transactions to the DEA when necessary.....

*Keith McIntyre*

Director of Business Systems  
Warehouse Management Solutions  
McKesson Pharmaceutical  
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[Keith.McIntyre@McKesson.com](mailto:Keith.McIntyre@McKesson.com)

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**From:** Gustin, Dave  
**Sent:** Friday, December 17, 2010 6:16 AM  
**To:** McDonald, Tom; de Gutierrez-Mahoney, Bill  
**Cc:** McIntyre, Keith  
**Subject:** RE: Variance and Suspicious Reports

It is also in our province to define what is suspicious, according to the DEA. I have gotten good feedback from you and Bill and have a direction to take. Thanks guys!!

Dave Gustin DRA North Central  
937 840 8553

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**From:** McDonald, Tom  
**Sent:** Thursday, December 16, 2010 6:38 PM  
**To:** Gustin, Dave; de Gutierrez-Mahoney, Bill  
**Cc:** McIntyre, Keith  
**Subject:** RE: Variance and Suspicious Reports

I don't believe you have identified a suspicious order or customer within the last six months, have you? It is still part of our process to report all suspicious orders to the DEA and to the state board when they are discovered. Our current process better identifies suspicious orders rather than orders of interest. One man's opinion.

Regards,

Tom McDonald  
Director of Regulatory Affairs  
Western Region  
McKesson Pharmaceuticals  
9501 Norwalk Blvd.  
Santa Fe Springs, CA 90670  
office 562-463-2250  
cell 562-577-7699  
fax 562-463-2251

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**From:** Gustin, Dave  
**Sent:** Thursday, December 16, 2010 2:03 PM  
**To:** McDonald, Tom; de Gutierrez-Mahoney, Bill  
**Cc:** McIntyre, Keith  
**Subject:** FW: Variance and Suspicious Reports  
**Importance:** High

Any insights???

Dave Gustin DRA North Central  
937 840 8553

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**From:** Vanderburg, Craig

**Sent:** Thursday, December 16, 2010 4:10 PM  
**To:** Gustin, Dave  
**Cc:** Williams, Tyra  
**Subject:** FW: Variance and Suspicious Reports  
**Importance:** High

Hi Dave, Tyra reminds me that these reports are no longer generated but required by the State of Michigan. Any way we can obtain this information somehow??

Craig

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**From:** Williams, Tyra  
**Sent:** Thursday, December 16, 2010 2:33 PM  
**To:** Vanderburg, Craig  
**Subject:** Variance and Suspicious Reports  
**Importance:** High

Craig,

Please do not forget that these reports must be sent to the State. We have not sent the reports for the last 6 months.

*Tyra Williams*

*Arcos Coordinator*

*McKesson 132*

*734-855-1406*

*734-779-8819 fax*